

CHAPTER NO. 394

HOUSE BILL NO. 1210

By Representative Bowers and Mr. Speaker Naifeh and Representatives Sontany, Fitzhugh, McMillan, Langster, Sherry Jones, Hood, Mike Turner, Harmon, Cobb, Ferguson, Overbey, Hackworth, Favors, Brown, Tindell, Armstrong, Maddox, Pinion, Shepard, Litz, Yokley, Shaw, Borchert, Kernell, Lois DeBerry, Miller, Moore, Pruitt, Davidson, Curtiss, Fraley, Bone, West, McDonald, Marrero, Larry Turner, John DeBerry, Ulysses Jones, Campfield, DuBois, Gresham

Substituted for: Senate Bill No. 1763

By Senators Person, Bowers, Beavers, Black, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Finney, Ford, Fowler, Hagood, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Southerland, Tracy, Williams and Mr. Speaker Wilder

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 3, Part 6, relative to orders of protection and violations thereof.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-3-612, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A person who knowingly violates an order of protection issued pursuant to this part or a restraining order issued to a party who is a victim as defined in § 36-3-601(8) commits the offense of violation of a protective order.

(b) In order to be found guilty under this section:

(1) The person must have received notice of the request for an order of protection or restraining order;

(2) The person must have had an opportunity to appear and be heard in connection with the order of protection or restraining order; and

(3) The court made specific findings of fact in the order of protection or restraining order that the person had committed domestic abuse as defined in this part.

(c) Any act that constitutes the offense of violation of a protective order shall be subject to arrest as set forth in § 36-3-619.

(d) A person who is arrested for violation of a protective order shall be considered within the provisions of § 40-11-150(a) and subject to the twelve-hour hold period authorized by § 40-11-150(h).

(e) At the time the issue of bond is being determined, the magistrate shall notify or cause to be notified the victim of violation of a protective order that the defendant has been arrested.

(f) Neither an arrest nor the issuance of a warrant or capias for the offense of violation of a protective order shall in any way affect the validity or enforceability of any order of protection or restraining order.

(g) Violation of a protective order is a Class A misdemeanor and any sentence imposed shall be consecutive to any other offense that is based in whole or in part on the same factual allegations unless the sentencing judge or magistrate specifically makes the sentences for any such offenses arising out of the same facts to be concurrent with one another.

SECTION 2. This act shall take effect July 1, 2005, the public welfare requiring it.

PASSED: May 24, 2005


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 9th day of June 2005


PHIL BREDESEN, GOVERNOR